

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

The musical tone signal generation apparatus of the present invention detects pressure applied to the performance operator and generates corresponding musical tone signals in response to the detected pressure. Specifically, Applicants claim a “pressure sensor ... mounted on a base member ... encapsulated in a hold member that is made by an elastic material and is formed in a round shape suited for grip of a user.” Lowe fails to teach Applicants’ performance operator, including the detection of the player’s grasping operation of a hold member formed in a round shape suited for grip of a user.

Lowe discloses a musical hat whose visor incorporates a musical device. Depressing a switch in the brim of the hat operates the playback device. The device plays a tune programmed into a chip. To operate the device, as shown in Figure 1, the user uses his fingers to activate the switch that operates the musical device. However, Lowe fails to teach a “pressure sensor” or a “hold member ... that is formed in a round shape” that is grasped in the user’s hand to operate it. Further, Lowe fails to disclose the specific configuration of the claimed device, “a hold member that is made by an elastic material and is formed in a round shape suited for grip of a user.” Therefore, Lowe does not anticipate Applicants’ apparatus as recited in claim 1.

Paragraph 3 of the Office Action rejects claims 1-4 and 14-17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,130,696 (“Liebman”). Applicants respectfully traverse this rejection and request withdrawal thereof.

Claim 1 requires a “pressure sensor.” Liebman does not disclose a pressure sensor. Liebman discloses a container incorporating a sound generating device. The sound generating device 20 is activated when the container is opened and photosensitive element 48 is subjected to light. When photosensitive element 40 detects light, the device is activated and produces sound.

Liebman is unlike Applicants’ claimed invention. Liebman fails to disclose operation of the sound generating device in response to a pressure sensor. Therefore, because no pressure sensor is disclosed, there is no “pressure sensor ... mounted on a base member ... encapsulated in a hold member that is made by an elastic material” as explicitly recited in Applicants’ claim 1. Thus, Liebman does not anticipate Applicants’ claims

Therefore, it is asserted that the rejection of claims 1-4 and 14-17, under 35 U.S.C. § 102 has been overcome. Reconsideration of the rejection of claims 1-4 and 14-17, under 35 U.S.C. § 102 is respectfully requested in light of the remarks above.

Applicant has responded to all of the rejections recited in the Office Action, reconsideration and Notice of Allowance for all of the pending claims is therefore respectfully requested.

It is asserted that the present response places the application in a form for allowance. Entry of this amendment is therefore earnestly solicited.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

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Respectfully submitted,

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